

1 Michael D. Gutierrez #V68887
 2 P.V.S.P A4-141
 3 P. O. Box 8501
 4 Coalinga, CA 93210

5 Petitioner in Propria Persona
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Chase

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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

MICHAEL DAVID GUTIERREZ,

Petitioner in Propria Persona,

vs.

JAMES A. YATES, WARDEN,
 DEPARTMENT OF CORRECTIONS,
 PLEASANT VALLEY STATE PRISON,

Defendants.

CASE NO. 5:07-CV-03668-RMW

**DECLARATION OF ROBERT
 MENDOSA IN SUPPORT OF
 MOTION FOR PERMISSION TO E-
 FILE DOCUMENTS**

[Filed Concurrently with Notice of Motion; Memorandum of Points and Authorities; Declaration of Michael David Gutierrez; and Proposed Order]

Date: July 14, 2007
 Time: 9:00 a.m.
 Judge: Hon. Ronald M. Whyte
 CourtRoom: 6

ORIGINAL


I, Robert Mendosa declare as follows:

1. I have personal knowledge of the matters stated herein, and if called upon to testify, I would and could competently do so.

2. I was approached by Michael David Gutierrez's family to assist him in challenging his state court conviction pending in federal court. Mr. Gutierrez is my paternal second cousin.

3. I reviewed the court docket in the pending action and noted that

1 simultaneous to filing the pending writ of habeas corpus, Mr. Gutierrez filed a Motion to
2 Proceed in Forma Pauperis and a Motion for Appointment of Counsel in the instant
3 action.

4 4. Upon contacting Mr. Gutierrez, I informed him that it might be advisable to
5 wait until the court ruled on his pending Motion for Appointment of Counsel before
6 offering to assist him with the instant action. I further advised Mr. Gutierrez that I was
7 not a lawyer and suggested that it would be prudent to for him seek the assistance of a
8 qualified member of the State Bar of California to assist him in prosecuting the instant
9 federal action.

10 5. On February 11, 2008 the court denied Mr. Gutierrez's Motion for
11 Appointment of Counsel. Upon the Court's denial of Mr. Gutierrez's Motion for
12 Appointment of Counsel, I offered to assist Mr. Gutierrez in having documents filed with
13 the court. I qualified my offer of assistance by stating, that I could not provide Mr.
14 Gutierrez with legal advice since I was not licensed to practice law in the State of
15 California. I informed Mr. Gutierrez as to what I felt to be the benefits and drawbacks of
16 electronically filing documents and suggested that in order to properly assist him, the most
17 efficient and economical method of filing documents in the instant action would be by
18 electronic means, (i.e., e-filing). As such, Mr. Gutierrez authorized me open an email
19 account for sole and exclusive purpose of communicating with the court and retrieving
20 court documents. That email account is listed as: gutierrezdm100@yahoo.com.

21 6. Mr. Gutierrez has authorized me to electronically file documents with the
22 court, retrieve any documents in the instant action from the PACER system and further
23 granted me to access such any and all documents related to the instant action which may
24 be sent to the email address listed above.

25 7. It should be noted that I reside in Alhambra, California (Southern
26 California) while Mr. Gutierrez is incarcerated in Coalinga (Northern California). As
27 such, I believe that electronic filing would be the most practical, economical and efficient
28 method of filing documents with the court in this particular instance.

1 8. I regularly e-files documents in the Northern District (under the supervision
2 of attorney), as well as in other state and federal courts. I maintain a Public Access to
3 Electronic Records (“PACER”) account and am familiar with filing, searching and
4 retrieving documents from the federal Case Management/Electronic Case Files
5 (“CM/ECF”) system as well as PACER. Additionally, I possess all the necessary
6 hardware and software to allow me the ability to e-file documents with the Court and
7 retrieve documents from PACER.

8 9. Upon review of file materials submitted in the instant action as well as the
9 underlying appeal, it is my belief that Mr. Gutierrez brings this action in good faith and
10 believe that his claim has merit.

11 10. I further believe that with my assistance, Mr. Gutierrez can fully comply
12 with any and all e-filing requirements that the court imposes on the parties to this
13 litigation.

14 I declare under penalty of perjury under the laws of the United States that the
15 foregoing is true and correct to the best of my knowledge and belief.

18 DATED: June 16, 2008

By:

Robert Mendosa

DECLARATION OF SERVICE BY U. S. MAIL

Gutierrez v. Yates, Case No. C 07-3668 RMW (PR)

I declare:

I am presently incarcerated at Pleasant Valley State Prison. I am over the age of 18, and a party to the within action. My address is: A-4-141, Box, 8501, Coalinga, California.

On June 23, 2008, I served the foregoing document described as:

**DECLARATION OF ROBERT MENDOSA IN SUPPORT OF
MOTION FOR TO PERMISSION TO E-FILE DOCUMENTS**

on the interested parties by U. S. Mail a true copy as follows:

EDMUND G. BROWN JR., Esq.

Attorneys for Respondent

Attorney General of the State of California

DANE R. GILLETTE., Esq.

GERALD A. ENGLER., Esq.

GREGORY A. OTT., Esq.

ALLEN R. CROWN., Esq.

455 Golden Gate Avenue, Suite 11000

San Francisco, CA 94102-7004

Telephone: (415) 703-5847

Fax: (415) 703-1234

VIA U.S. MAIL: 

On June 23, 2008, at , California, I deposited the above described document, with the U.S. postal service with postage thereon fully prepaid and addressed to the parties listed above.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and was executed on June 23, 2008 at Coalinga, California.

Michael D. Gutierrez
Type or Print Name


Signature



THIS MAIL GENERATED FROM
PLEASANT VALLEY STATE PRISON

First Class Mail
ipw ssp|ts

MICHAEL D. GUTIERREZ #V68887
P.V.S.P.A. # 2 - 150
P. O. BOX 8561
COALINGA, CA 93210

LEGAL MAIL

TO:

United States District Court
Northern District of California
Attn: Court Clerk - Filing Window
280 South 1st Street
San Jose, CA 95113

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